

Docket No. 1095.1076/RAG

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Akira KAMAKURA, et al.

Serial No.: 08/901,692

Filed: July 28, 1997

For: A MARKETING SYSTEM AND METHOD PROCESSING MARKET INFORMATION
OF CONSUMERS AND DEALERS VIA A NETWORK

PETITION UNDER 37 CFR § 1.181

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

Applicants respectfully request that the Examiner be instructed to follow the procedures set forth in MPEP § 2144.03 and cite a reference, instead of relying upon Official Notice as requested in the Request for Reconsideration filed September 7, 1999.

An Applicants' Summary of Examiner Interview is submitted herewith providing a summary of the telephonic Examiner Interview held September 28, 1999. As discussed in the Summary, the Examiner informed the undersigned that training was being held instructing examiners to refuse to cite a reference in accordance with MPEP § 2144.03 unless applicant(s) provide "adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice."

It is submitted that the standard applied by the Examiner in this case is unreasonable and that the standard should not be changed without notice being given to applicants. In this situation, Applicants were responding to a final Office Action and according to the procedures published in the MPEP, Applicants had a right to receive a reference supporting the Examiner's position by requesting that a reference be provided.

It is submitted that the standard used by the Examiner in this case places too great a burden on Applicants. Presumably, examiners rely upon Official Notice when their experience leads them to believe that a fact is well-known to practitioners in the art. However, Applicants

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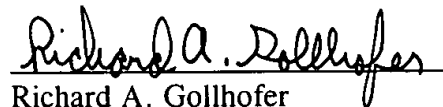
have no way of knowing the level of experience of an examiner. As a result, it is impossible to determine what evidence would be sufficient to raise doubt on the part of a specific examiner. In addition, what Applicants are being requested to prove is essentially a negative, i.e., that a fact is **not** well known.

Given the extent of the burden on applicants under the new procedure as described by Examiner Kazimi on September 28, 1999 compared to the burden on an examiner to find a reference supporting something that is believed to be well-known, it is submitted that the long-established procedures set forth in MPEP § 2144.03, not the new procedure described by Examiner Kazimi on September 28, 1999 should be followed in this case. Therefore, it is respectfully requested that the Examiner be instructed to withdraw the finality of the June 7, 1999 Office Action and cite a reference supporting the Examiner's position and otherwise respond to the arguments in the Request for Reconsideration filed September 7, 1999.

If any fee is required in connection with the filing of this Petition, please charge same to our Deposit Account No. 19-3935.

Respectfully submitted,

STAAS & HALSEY LLP



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Dated: 11/8/99

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Akira KAMAKURA, et al.

Serial No.: 08/901,692

Filed: July 28, 1997

Group Art Unit: 2765

Examiner: H. Kazimi

For: A MARKETING SYSTEM AND METHOD PROCESSING MARKET INFORMATION
OF CONSUMERS AND DEALERS VIA A NETWORK

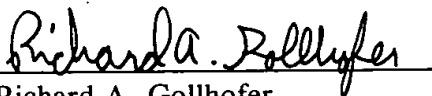
APPLICANTS' SUMMARY OF EXAMINER INTERVIEW

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

On September 28, 1999, a telephonic Examiner Interview was held to discuss the standard being used in determining whether applicants provide "adequate information or argument so that on its face it creates a reasonable doubt regarding the circumstances justifying the Official Notice" (Advisory Action, page 3, lines 7-8). The Examiner informed the undersigned that he had recently been trained in a new procedure for responding to requests for a reference supporting taking of Official Notice. The Examiner stated that according to the new procedure, reference(s) will be provided only if an argument is made raising a reasonable doubt regarding the subject matter of the Official Notice.

Respectfully submitted,
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